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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LUCY CALDERA, individually and on)	Case No.
behalf of all others similarly situated,)	
)	<u>CLASS ACTION</u>
Plaintiff,)	
)	COMPLAINT FOR VIOLATIONS
vs.)	OF:
)	
R.M. GALICIA, INC. dba)	1. NEGLIGENT VIOLATIONS
PROGRESSIVE MANAGEMENT)	OF THE TELEPHONE
SYSTEMS,)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227 ET
)	SEQ.]
Defendant.)	2. WILLFUL VIOLATIONS
)	OF THE TELEPHONE
)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227 ET
)	SEQ.]
)	
)	<u>DEMAND FOR JURY TRIAL</u>
)	
)	

Plaintiff LUCY CALDERA ("Plaintiff"), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

1 and recovery/collection and is a “person” as defined by *47 U.S.C. § 153 (10)*.

2 **FACTUAL ALLEGATIONS**

3 6. Beginning in and around May of 2015, Defendant contacted Plaintiff
4 on her cellular telephone, ending in -4659, in an attempt to collect an alleged
5 outstanding debt.

6 7. Defendant often left voicemail messages on Plaintiff’s cellular
7 telephone if Plaintiff did not answer Defendant’s calls. In these messages,
8 Defendant utilized an “artificial or prerecorded voice” as prohibited by *47 U.S.C.*
9 *§ 227(b)(1)(A)*.

10 8. The prerecorded message stated as follows:

11 “‘Armando Caldera’. If we have reached the wrong number for
12 this person please call us back at 866-767-1043 to remove your
13 phone number. If you are not ‘Armando Caldera’ please hang
14 up. If you are ‘Armando Caldera’ please continue to listen to
15 this message. ‘Armando Caldera’ you should not listen to this
16 message so other people could hear it as it contains personal
17 and private information. This is Patricia from Progressive
18 Management Systems. This is an attempt to collect a debt by a
19 debt collector. Any information obtained will be used for that
20 purpose. Please contact me about an important business matter
21 at 866-767-9317.”

22 9. During all relevant times, as evidenced by the utilization of a
23 prerecorded voice, Defendant used an “automatic telephone dialing system”, as
24 defined by *47 U.S.C. § 227(a)(1)* to place its daily calls to Plaintiff seeking to
25 collect the debt allegedly owed.

26 10. Plaintiff is in no way associated with any loan, obligation, and/or
27 agreement made between Defendant and ‘Armando Caldera.’

28 11. Defendant’s calls constituted calls that were not for emergency

1 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

2 12. Defendant's calls were placed to telephone number assigned to a
3 cellular telephone service for which Plaintiff incurs a charge for incoming calls
4 pursuant to 47 U.S.C. § 227(b)(1).

5 13. Accordingly, Defendant did not possess Plaintiff's "prior express
6 consent" to receive calls using an automatic telephone dialing system or an
7 artificial or prerecorded voice on her cellular telephone pursuant to 47 U.S.C. §
8 227(b)(1)(A).

9 **CLASS ALLEGATIONS**

10 14. Plaintiff brings this action individually and on behalf of all others
11 similarly situated, as a member of the proposed class (hereafter "The Class")
12 defined as follows:

13 All persons within the United States who received any
14 collection telephone calls from Defendant to said
15 person's cellular telephone made through the use of
16 any automatic telephone dialing system or an artificial
17 or prerecorded voice and such person had not
18 previously consented to receiving such calls within the
four years prior to the filing of this Complaint.

19 15. Plaintiff represents, and is a member of, The Class, consisting of All
20 persons within the United States who received any collection telephone calls from
21 Defendant to said person's cellular telephone made through the use of any
22 automatic telephone dialing system or an artificial or prerecorded voice and such
23 person had not previously not provided their cellular telephone number to
24 Defendant within the four years prior to the filing of this Complaint.

25 16. Defendant, its employees and agents are excluded from The Class.
26 Plaintiff does not know the number of members in The Class, but believes the
27 Class members number in the thousands, if not more. Thus, this matter should be
28 certified as a Class Action to assist in the expeditious litigation of the matter.

1 17. The Class is so numerous that the individual joinder of all of its
2 members is impractical. While the exact number and identities of The Class
3 members are unknown to Plaintiff at this time and can only be ascertained
4 through appropriate discovery, Plaintiff is informed and believes and thereon
5 alleges that The Class includes thousands of members. Plaintiff alleges that The
6 Class members may be ascertained by the records maintained by Defendant.

7 18. Plaintiff and members of The Class were harmed by the acts of
8 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
9 and Class members via their cellular telephones thereby causing Plaintiff and
10 Class members to incur certain charges or reduced telephone time for which
11 Plaintiff and Class members had previously paid by having to retrieve or
12 administer messages left by Defendant during those illegal calls, and invading the
13 privacy of said Plaintiff and Class members.

14 19. Common questions of fact and law exist as to all members of The
15 Class which predominate over any questions affecting only individual members
16 of The Class. These common legal and factual questions, which do not vary
17 between Class members, and which may be determined without reference to the
18 individual circumstances of any Class members, include, but are not limited to,
19 the following:

- 20 a. Whether, within the four years prior to the filing of this
21 Complaint, Defendant made any collection call (other than a
22 call made for emergency purposes or made with the prior
23 express consent of the called party) to a Class member using
24 any automatic telephone dialing system or any artificial or
25 prerecorded voice to any telephone number assigned to a
26 cellular telephone service;
- 27 b. Whether Plaintiff and the Class members were damages
28 thereby, and the extent of damages for such violation; and

1 c. Whether Defendant should be enjoined from engaging in such
2 conduct in the future.

3 20. As a person that received numerous collection calls from Defendant
4 using an automatic telephone dialing system or an artificial or prerecorded voice,
5 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
6 typical of The Class.

7 21. Plaintiff will fairly and adequately protect the interests of the
8 members of The Class. Plaintiff has retained attorneys experienced in the
9 prosecution of class actions.

10 22. A class action is superior to other available methods of fair and
11 efficient adjudication of this controversy, since individual litigation of the claims
12 of all Class members is impracticable. Even if every Class member could afford
13 individual litigation, the court system could not. It would be unduly burdensome
14 to the courts in which individual litigation of numerous issues would proceed.
15 Individualized litigation would also present the potential for varying, inconsistent,
16 or contradictory judgments and would magnify the delay and expense to all
17 parties and to the court system resulting from multiple trials of the same complex
18 factual issues. By contrast, the conduct of this action as a class action presents
19 fewer management difficulties, conserves the resources of the parties and of the
20 court system, and protects the rights of each Class member.

21 23. The prosecution of separate actions by individual Class members
22 would create a risk of adjudications with respect to them that would, as a practical
23 matter, be dispositive of the interests of the other Class members not parties to
24 such adjudications or that would substantially impair or impede the ability of such
25 non-party Class members to protect their interests.

26 24. Defendant has acted or refused to act in respects generally applicable
27 to The Class, thereby making appropriate final and injunctive relief with regard to
28 the members of the Class as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

25. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-24.

26. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

27. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

28. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

30. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

31. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 6th day of October, 2015.

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LAW OFFICES OF TODD M. FRIEDMAN, P.C.

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2 By: /s/ Todd M. Friedman
3 Todd M. Friedman
4 Law Offices of Todd M. Friedman
5 Attorney for Plaintiff
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